

REMARKS

Claims 7-8 and 10-13 are pending.

Claims 7-8 and 10-13 are rejected.

ARGUMENTS

I. Claims 7-8 and 10-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0170053 to Peterka et al. (hereinafter “Peterka”) in view of U.S. Patent No. 6,697,489 to Candelore et al. (hereinafter “Candelore”) and further in view of U.S. Patent Publication No. 2003/0005285 to Graunke (hereinafter “Graunke”).

Claim 8 recites, *inter alia*, “generating a billing record data in the receiver *in response to* the receipt of the authorization key and transmitting the billing record data from the receiver to the service provider.” Claims 7 and 13 recite analogous subject matter. The Examiner concedes that Peterka and Candelore fail to teach this element but adds the new reference of Graunke as to anticipate all of the claimed elements of Claim 7. The Applicants however disagree with the Examiner’s conclusion that all three references anticipate the claimed elements of Claim 8.

The Examiner cites to the scenario in paragraph 0047 of the Peterka reference when a Impulse Pay Per View (IPPV) purchase takes place. Specifically, such an IPPV purchase is considered to be a local purchase where, “the client itself makes the purchase locally, and stores a record of the purchase. At some later time, the record is reported to the infrastructure systems for billing.” The Examiner concludes in view of this section that although the Peterka reference teaches “generating a billing record data in the receiver”, the Peterka reference alone or with Candelore does not disclose or teach the claimed element of having such billing information generated “in response to the receipt of the authorization key”.

The Examiner then combined Peterka and Candelore with a new reference Graunke as to anticipate the claimed element of when billing information is to be generated. The Examiner cites to paragraph 0028 of Graunke which discloses how various keys using SAC's are distributed to devices such as set top boxes and/or sinks (which are used to decrypt and playback audio/video). Paragraph 0028 of Graunke also states, "In one embodiment, billing and audit information collected by the set-top box or by the sinks can be communicated over SAC's or another channel back to the server that manages the keys 63 or another server." The problem with the Examiner's combination of Peterka, Candelore, and Graunke is that such references do not teach a relationship (or timing) between the receipt of an authorization key and the generation of billing information. Specifically, the operation of "generating a billing record data in the receiver *in response to* the receipt of the authorization key" is still missing from the Examiner's combination.

That is, the billing disclosure of Peterka logically teaches that billing information will be generated in response to a user making a selection to IPPV purchase. The addition of Graunke only reiterates the previous concept of Peterka where billing information is "collected by a set-top box (paragraph 0028, Graunke)." It would then follow that the generation of such billing information is at the time a user purchase of content (as taught in Peterka) because the combination of Peterka with Graunke (with Candelore) only reiterates that a set-top box can collect billing information. Hence, one can only conclude that the combination of these references teaches that billing information is generated from a user request for such a purchase at the time a purchase is made (IPPV). The transmission of such billing information in the Examiner's combination may be at a later time. Regardless, the Examiner's combination does

not teach or disclose the element of Claim 8 of “generating a billing record data in the receiver *in response to* the receipt of the authorization key.

It is therefore believed that Claims 7, 8, and 13 are in condition for allowance under this rejection. Because Claims 10–12 depend from Claim 8 respectively and include all of the subject matter of their parent claims, it is believed that Claims 10–12 are also in condition for allowance. Reconsideration of the rejection is earnestly solicited.

II. Claims 7–8 and 10–13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0170053 to Peterka et al. (hereinafter “Peterka”) in view of U.S. Patent No. 6,697,489 to Cadelore et al. (hereinafter “Cadelore”) and further in view of U.S. Patent Publication No. 2003/0140348 to Stewart (hereinafter “Stewart”). The arguments to this rejection are restated below for convenience.

Claim 8 recites, *inter alia*, “generating a billing record data in the receiver *in response to* the receipt of the authorization key and transmitting the billing record data from the receiver to the service provider.” Claims 7 and 13 recite analogous subject matter. The Examiner concedes that Peterka and Cadelore fail to teach this element, but asserts that Stewart cures such deficiencies in its billing control system 114.

However, it should be noted that the present claims recite generating billing records *in the access device*. Stewart’s access device 200 does not include any such billing control system. Instead, the billing control system 114 is formed as part of Stewart’s service provider 100. Stewart explicitly says this in paragraph 23, stating, “The multimedia broadcast system 100 can further include ... a billing control system 114 that generates a billing code for invoicing a

subscriber when a user receives an authorization code.” The billing control system 114 therefore exists only on the service provider side, as shown in Stewart’s FIG. 1.

In response to this argument, the Examiner argues that the billing control system 114 of Stewart does in fact teach this claimed element by citing to paragraphs 0023, 0039, and 0041 of Stewart which when combined with Cadelore and Peterka teach the such a claimed element. Claim 8 claims “*generating a billing record data in the receiver* in response to the receipt of the authorization key and transmitting the billing record data from the receiver to the service provider,” (emphasis added), where such billing record data is generated within a receiver. If one were to refer to billing system 114 of Stewart, it is clear that the billing system is external to any of the subscribers 200 as shown in FIG. 1.

This would not involve billing record data coming from a receiver as claimed in Claim 8. It is clear that the source of billing information is different between the prior art and the present invention where, “Referring to step 410, a billing code can be generated by the billing control system 114, responsive to the user request to view the presentation” (paragraph 0041 of Stewart), where system 114 of Stewart is external of the receiver. That is, the source of billing information is different in Stewart (in view of the other prior art) and the conditions of generating the billing information is not the same as “that billing code is generated in response to an authorization code,” as stated by the Examiner in the Final Rejection (Page 2, First Paragraph January 19, 2011). Clearly, the source and the conditions of generating billing data is different in Claim 8 as compared to the prior art.

Moreover, Stewart’s access device 200 is shown in FIG. 2, and there is no component which could reasonably be interpreted as generating billing records. There is furthermore no

indication whatsoever that, even if the access device 200 (with the cited prior art) could generate such records, it could then transmit the record to the service provider 100.

In rebuttal to the above arguments, the Examiner wrote in the rejection mailed on July 28, 2011

“The claim was rejected using the combination of Peterka, Candelore, Stewart, where Peterka discloses (paragraph 0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time. However, Peterka does not explicitly teach that the billing record data is generated in response to the receipt of authorization key. Stewart discloses (paragraph 0023) that the billing control system at the service provider generates billing code when a user receives an authorization code as represented in Fig. 4.”

The Examiner does recognize in view of the above made argument that Stewart does teach that “the billing control system is located at the service provider” and that “the billing control system at the service provider generates billing code when a user receives an authorization code as represented in FIG. 4”.

The combination of Peterka, Candelore, and Stewart then suggests a system where a head end would still be responsible for generating billing information as this system would be capable of having the broadcast system controller 102 (of Stewart) respond to an IPPV request from Peterka by instructing the billing control system 114 (of Stewart) to charge a customer when such a request is received. Even if the Examiner’s scenario of having billing information being generated in response to an authorization key, it is clear that the combination of Peterka, Candelore, and Stewart would represent that such an operation would take place with the interaction of the broadcast system controller 102, authorization control system 110, and billing control system 114 of Stewart coupled together in the head end. The Examiner does not indicate

why one would modify Peterka by using Stewart to anticipate the claimed feature of “*generating a billing record data in the receiver* in response to the receipt of the authorization key” when the Examiner’s combination suggests a different operation (as described above) than claimed in Claim 8.

It is therefore believed that Claims 7, 8, and 13 are in condition for allowance. Because Claims 10–12 depend from Claim 8 respectively and include all of the subject matter of their parent claims, it is believed that Claims 10–12 are also in condition for allowance. Reconsideration of the rejection is earnestly solicited.

The Applicants’ representative encourages the Examiner to discuss this application as to help close the prosecution of this application.

Respectfully submitted,

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